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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,643	02/19/2002	Kouichi Akagi	219653US3	2596

22850 7590 02/10/2004

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
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ALEXANDRIA, VA 22314

EXAMINER

RODRIGUEZ, WILLIAM H

ART UNIT PAPER NUMBER

3746

DATE MAILED: 02/10/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/076,643

Applicant(s)

AKAGI ET AL.

Examiner

William H. Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-8 is/are allowed.
- 6) ☒ Claim(s) 1 and 9 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This office action is in response to the amendment and remarks filed 1/8/04. Since the examiner has applied new grounds of rejection, this office action is being made non-final to afford the applicant the opportunity to respond to the new grounds of rejection.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites “the fuel oil supply pipe has a rear end portion for supplying the fuel therefrom held not to restrict a displacement in axial direction due to thermal expansion or compression” in lines 9-11. It is not clear what applicant means by this phrase. Examiner requests a clear explanation of what applicant is claiming by this phrase. Further, examiner request applicant to point out where the structural limitation in question is shown. Appropriate correction and clarification is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

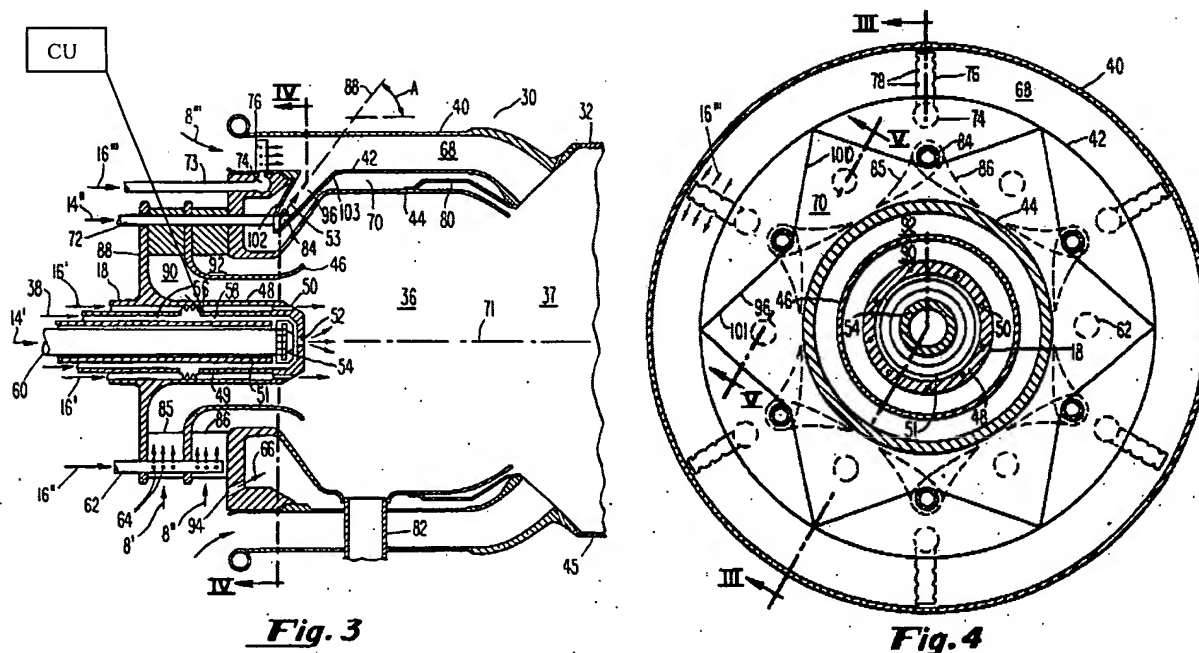
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by **Foss et al.** (U.S. 5,408,825).

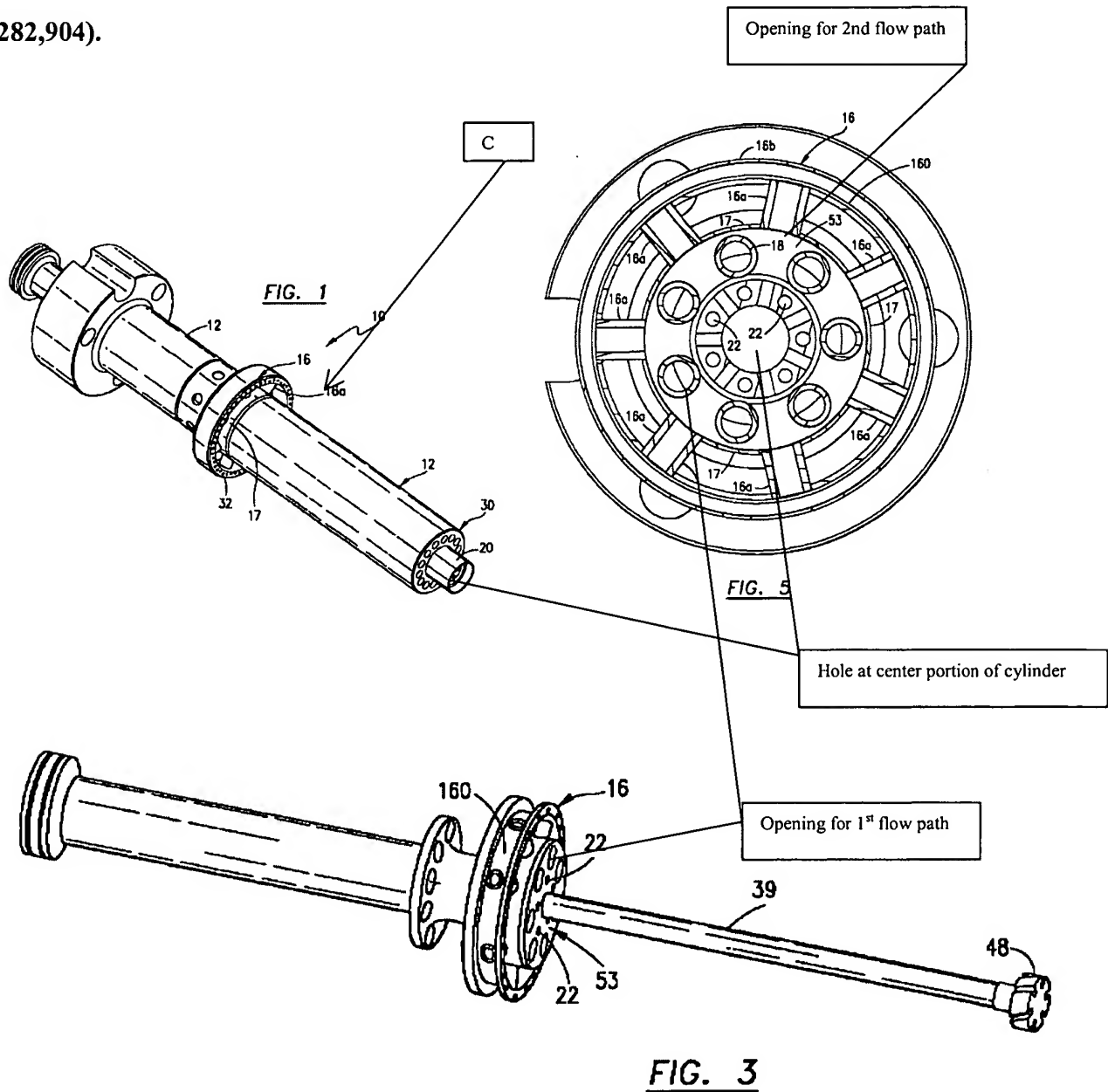


Foss et al. teach a nozzle comprising a fuel oil supply pipe 14' passed through a cylinder unit CU provided in an axial direction of the nozzle, a heat-shielding air layer 56 formed

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between the fuel oil supply pipe 14' and the cylinder unit; and a plurality of atomized-fluid supply paths 84 disposed uniformly in a circumferential direction of the cylinder unit. See particularly **Figures 3 and 4**.

5. Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by **Kraft et al (U.S. 6,282,904)**.



Kraft et al. teach a cylinder C having an end surface at one end and a hollow inside, wherein the cylinder is provided with a hole at a center portion of the end surface for passing a fuel supply path 39 therethrough, a first converting flow path 18 having an opening adjacent to the hole and communicating to the hollow for converting into a first supply path connected to the hollow inside the cylinder and having a ring-shaped cross section, and a second converting flow path 16a having an opening adjacent to the hole and communicating to the outside of the cylinder for converting into a second supply path formed outside the cylinder. See particularly **Figures 1, 3 and 5.**

Allowable Subject Matter

6. Claims 2 and 3 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claim 4 is allowed. The following is an examiner's statement of reasons for allowance: the prior art neither discloses nor makes obvious the combination set forth in the independent claims, and especially does not show "*a plurality of atomized-fluid supply paths and fuel gas supply paths disposed uniformly in a circumferential direction of the cylinder unit*", in combination with the other claim limitations.

Claim 5 were previously objected as being allowable if rewritten in independent form. Applicant has done this and thus claim 5 and its dependent claims are allowed.

The indicated allowability of claim 9 is withdrawn in view of the newly discovered reference(s) to **Kraft et al.** See rejections above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

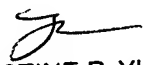
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodriguez whose telephone number is 703-605-1140. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R Yu can be reached on 703-308-2675. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

W.R


JUSTINE R. YU
PRIMARY EXAMINER
2/6/08